

**BEFORE THE CONSUMER GRIEVANCES REDRESSAL FORUM**  
**C/o MADHYA GUJARAT VIJ CO LIMITED**  
CORPORATE OFFICE, 2<sup>ND</sup> FLOOR SP VIDYUT BHAVAN,  
**RACECOURSE, VADODARA 390 007**

|                 |                                                                 |
|-----------------|-----------------------------------------------------------------|
| Subject         | Consumer Grievances Complaint<br>MG-II-32-09.10                 |
| Complainant     | Mohammadbhai D Momin, Lal Darwaja,<br>OPP:Jahagirpur, Khambhat, |
| Respondent      | Shri R D Solanki, DE Cambay (Rural) MGVCL                       |
| Date of hearing | 23.11.09                                                        |

| QUORUM             | NAME                   |
|--------------------|------------------------|
| Chairman           | Shri S A Pota, MGVCL   |
| Member             | Shri K R Shah, MGVCL   |
| Independent Member | Dr R C Desai, Vadodara |

This complaint dated 19.09.09 is directed against lack of response to the application seeking new industrial connection.

Today on 23.11.09, the case of the Complainant Grievance was heard before Consumer Grievance Redressal Forum wherein Mohammadbhai D Momin appeared himself whereas Shri R D Solanki, DE Cambay (Rural) appeared as respondent on behalf of MGVCL before the Forum. Both the parties were heard.

The facts of the case are as follows:

The complainant purchased under auction from Gujarat State Financial Corporation (GSFC), the property of Shri Keshvanand Synthetics Pvt Ltd., He then applied on 17.7.09 for availing new electric connection from MGVCL, Kansari s/dn. He was informed by the local office that the new connection could not be released because of the outstanding arrears of payment due from the previous owner Shri Keshvanand Synthetics P Ltd.,

The previous owner bearing con No.09586/00080/0 had requested MGVCL for Permanent Disconnection (PDC) by an application dated 15.2.1999 and an order to that effect was issued by MGVCL on 16.2.1999. However, its

premises were found sealed and so the PDC was executed from outside and whatever material of MGVCL lying outside was collected. A legal notice was served to the previous owner for recovery of outstanding arrears on 12.7.1999 and thereafter a civil suit No.9 of 2000 was filed on 15.1.2000 before Hon'ble Court of Civil Judge, Khambhat for recovery of net arrears of Rs.43535.29 after adjusting refund towards deposit.

The complainant in his support has referred to a letter dated 3.7.2009 from GSFC to DE Khambhat MGVCL wherein it is mentioned that as per resolution dated 7.2.2004 of Government of Gujarat [GoG], the outstanding arrears with stipulated organizations due to the property of the previous owner sold out by GSFC have to be distributed on pro-rata basis. This letter also mentions that in such cases, the electric connection should be released without demanding the arrears due to previous owners, as per resolution of their Head Office. In this context, as per the related resolution dated 5.9.2006 of GoG, the task of aforesaid pro-rata distribution of arrears would be coordinated by the Industries Commissioner. A letter dated 3.7.2009 from GSFC sought details of arrears from the DE MGVCL who in turn responded vide letter dated 12.10.2009 stating the amount of up-to-date outstanding arrears as Rs.43700.00 towards legal suit Rs.87,990.71 towards Delayed Payment Charges (DPC) and Rs.7154.00 as legal expenses making a total demand of Rs.1,38,844.71. As on this date of hearing, there is no response from the Industries Commissioner for the recovery of outstanding arrears of previous owner Shri Keshvanand Synthetics Pvt Ltd., In sequel, the MGVCL did not release the electric connection to the complainant. Aggrieved by the uncertainty of availing the connection, the complainant has approached this Forum for award of justice.

The complainant contended that in absence of availability of electric power from MGVCL, he cannot start production in the factory purchased under public auction executed by GSFC. He is losing heavily on interest against loans taken from financiers for the purchase of factory premises and machinery. The complainant also put forth the argument that because he has purchased the factory premises from GSFC during an auction programme, the previous

owner for him happens to be the GSFC and not the “Shri Keshvanand Synthetics Pvt Ltd., Moreover, the GSFC was aware of the outstanding arrears of M/s. Keshvanand Synthetics Pvt Ltd., with MGVCL and a permanent system for recovery of arrears has been in vogue as explained in the letter dated 3.7.2009. Therefore, it is the responsibility of MGVCL to recover from GSFC, the aforesaid outstanding arrears of MGVCL with Shri Keshvanand Synthetics Pvt Ltd and not from the complainant. He referred to the resolution of GoG conveyed vide letter dated 5.9.2006 wherein it is mentioned that electric connection in such cases should be released by MGVCL without insisting on the demand for payment of arrears due to previous owners. On the basis of this resolution, the complainant has urged that electric connection should be released by MGVCL, without insisting on the payment of arrears outstanding with M/s. Keshvanand Synthetics Pvt Ltd.,

The Respondent Shri R D Solanki of MGVCL submitted that the electric connection could not be released to the complainant because of the outstanding arrears of payment due to the previous owner, as per the policy of MGVCL. In his support, he also cited the latest judgement of the Hon'ble Supreme Court dated 7.11.2008 in the matter of Civil Appeal No.6565 of 2008 in the case of Paschimandal Vidyut Vitran Nigam Limited and others versus M/s. VS Steels and Alloys Pvt Ltd., for which the Hon'ble Supreme Court has held that “the Distributor can stipulate the condition that the arrears due in regard to the supply of electricity to the previous owner / occupant should be cleared before the electric connection is restored to the premises or a fresh connection is provided”. He further submitted that whenever the applicant for new connection happens to be the purchaser of a property under auction by GSFC and if there are outstanding arrears of MGVCL due to the previous owner, they strive to recover arrears from GSFC via Industries Commissioner. They are in correspondence with the Industries Commissioner and GSFC for this purpose and as soon as the matter of the arrears is resolved. MGVCL would have no hesitation to release the connection to the complainant.

The Forum Members present at the hearing considered contention of both the parties and perused the records. The judgement of the Hon'ble Supreme

Court dated 7.11.2008 is self-explanatory and emphasizes that the arrears for electric supply due to the previous owner / occupant should be cleared before a new connection is released to the purchaser of the same premises. However, the GoG vide its letter dated 7.2.2004 has attempted to find a solution to such vexed problem of recovery of arrears due to previous owners, especially when the property of the previous owner, hypothecated with the GSFC against the loans to the previous owner, is sold out under public auction by GSFC to recover the loan amount. Perhaps, the underlying explanation interpreted between lines, is that the GSFC becomes the previous owner in place of the loanee company (M/s. Keshvanand Synthetics) and that GSFC undertakes the responsibility of payment of the debts/arrears due to previous owners, outstanding with MGVL, Governments, Municipal Corporation etc from the auctioned amount. This letter clearly states that as agreed upon by the higher echelons of electricity distribution licensees, the electric connection would be released to the new owner (having purchased the property through GSFC under auction) without insisting on the payment of arrears due to previous owner. The said arrears amount then shall be obtained by MGVL through aforesaid pro-rata distribution from GSFC, as facilitated by Industries Commissioner.

In view of the above discussion, the Forum is of the opinion that there should be no difficulty for MGVL in recovery of arrears due to previous owner from GSFC as facilitated by Industries Commissioner, GoG. In accordance with the arrangements stipulated in the GoG letter dated 7.2.2004, the electric connection should be released to the complainant as soon as possible.

### **ORDER**

The Forum directs the Madhya Gujarat Vij Co Limited to release the new electric connection to the complainant as per arrangement stipulated in letter dated 7.2.2004 of GoG.

**(K R Shah)**  
**Member**

**(Dr R C Desai)**  
**Independent Member**

**(S A Pota)**  
**Chairman**

**PS :**

*If the complainant is not satisfied with the order of this Forum, the complainant may approach the Ombudsman, Gujarat Electricity Regulatory Commission, 1<sup>st</sup> floor, Neptune Tower, OPP: Nehru Bridge, Ashram Road, Ahmedabad 380 009 in accordance with Chapter-5, Clause No.13 of GERC Notification No.4 of 2005.*

**Procedure to make representations before Ombudsman\*\*\***

1. Representation should be in writing duly signed by the complainant with his name and address.
2. Representation should be supported with affidavit.
3. True copy of order of Forum and original complaint made before Forum should be attached. Enclosed documents should be certified copies of the original documents.
4. The representation before Ombudsman should be submitted within 30 days from the date of order of Forum.
5. Copy of representation should be submitted at the office of Ombudsman. Copy of representation should be submitted to all respondents.
6. If the complainant is required to pay any amount according to the order of Forum, one-third of such amount should be deposited by complainant and proofs should be attached along with the representation.
7. The matter should not be pending before the competent Forum or any other court, tribunal, arbitrator or any other authority.
8. All representations should be with a sufficient cause, reasonable diligence causing the consumer prima facie loss and damages / inconvenience.
9. Representation may be submitted in English or Gujarati language

\*\*\* <http://www.gercin.org/docs/Cosumer%20Grievances/Procedure/Procedure.pdf>